

**THE HON'BLE SRI JUSTICE L.NARASIMHA
REDDY**

—
WRIT PETITION No. 19976 OF 2006

Dated 29th January 2007

Between:

Tallam Venkata Kameswara Rao & another

...Petitioners

and

The Managing Director & Authorised Officer,
Eluri Co-operative Urban Bank Limited, Patnam
Bazar,
Guntur.

...Respondents

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O R D E R:

The petitioners borrowed a sum of Rs.3,00,000/-
from the respondent, in the year 2004. The amount was
to be paid in

36 monthly instalments. While the petitioners state that
they paid Rs.1,50,000/-, according to the respondent,
only a sum of Rs.1,35,000/- was paid. For recovery of the
balance amount, the respondent sought to invoke the
provisions of Securitisation and Reconstruction of
Financial Assets and Enforcement of Security Interest
Act 2002 (for short "the Act). The petitioners challenge
the same.

Heard the learned counsel for the petitioners and learned counsel for the respondent.

It is not in dispute that the petitioners committed default in payment of instalments. The Act provides for enforcement of the security, in case the property offered as security comes to be termed as non-performing asset. The question as to whether the respondent followed the prescribed procedure, before it sought to invoke Section 13(2) of the Act, does not call for immediate consideration, because of certain developments, subsequent to filing of the writ petition. While admitting the writ petition on 25.9.2006, this court granted interim stay, on condition that the petitioners deposit a sum of Rs.1,15,000/-, within four weeks from that date. Default clause was added. The respondent also admits that the petitioners complied with the condition. It is now stated that a sum of Rs.1,40,861/- is due from the petitioners. This is inclusive of penal interest.

According to the agreed schedule, the total amount is to be repaid by March 2007. On account of the default committed by the petitioners, the entire amount was demanded, much before that date. The respondent did not suffer any loss in terms of interest. The calculation made by it was accepted, and a sum of Rs.1,15,000/- was paid, in advance. Be that as it may, the petitioners are extended the benefit of repaying the balance of Rs.1,40,861/-, in seven monthly instalments of

Rs.20,150/- each, commencing from February 2007, payable on or before 10th of every month. In case, the petitioners commit default in payment of any two consecutive instalments, it shall be open to the respondent, to invoke the provisions of the Act.

The writ petition is accordingly disposed of.
There shall be no order as to costs.

29th January 2007

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